

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.170 OF 2007

IN

SUMMARY SUIT NO. 651 OF 2007

Explor-India Marketing Pvt.Ltd.

... Plaintiff.

V/s.

M/s. Sree Annapoorna Foods.

... Defendant.

Mr. Rupesh D. Sohoni for the Plaintiff.

Mr. S.J. Purohit & Co. for the Defendant.

CORAM : DR. D.Y. CHANDRACHUD,J.

20TH JUNE 2007.

P.C. :-

. The Suit under Order 37 of the Code of Civil Procedure, 1908 has been filed to recover an amount of Rs.2,81,254/- together with interest from the date of the institution of the Suit.

2. The Plaintiff was appointed as a sole distributor for the State of Maharashtra by the Defendant. A security deposit of Rs.2.00 lakhs was paid by the Plaintiff. The distributorship was terminated by the Plaintiff on 7th December 2002 and

the Defendant was called upon to refund the security deposit of Rs.2.00 lakhs together with the credit balance of Rs.1,63,254/-. The Plaintiff referred to an agreement which was arrived at between the parties by which the Defendant agreed to pay an amount of Rs.3,31,594/-. In reply to the letter dated 31st December 2003, on 23rd April 2005, the Defendant pleaded its financial difficulties. Eventually, on 14th May 2005, the Defendant furnished a schedule for the repayment of an amount of Rs.3,31,254/- and furnished a cheque in the amount of Rs.50,000/- dated 19th May 2005 in part payment. The cheque was duly encashed. Thereafter, a letter of demand was furnished to the Defendant on 21st April 2006, to which there was no reply.

3. The hearing of the Summons for Judgment was adjourned on 4th June 2007 and again on 18th June 2007, in order to enable the Defendant to file a reply. No reply has been filed by the Defendant. Counsel for the Defendant states that despite a written communication to the Defendant dated 9th June 2007, no instructions have been forthcoming.

4. Counsel appearing on behalf of the Plaintiff has tendered a compilation of the original documents on the basis of which the claim in the suit stands proved. The claim in the suit is based on a written contract and falls within the purview of Order 37 of the C.P.C. The Defendant has acknowledged its liability by its letter dated 14th May 2005.

5. The suit shall accordingly stand decreed as prayed with the modification that the Plaintiff would be entitled to interest at the rate of 9% per annum from the date of the institution of the Suit until payment or realization.

6. The Summons for Judgment is accordingly made absolute.
